

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

UNITED STATES OF AMERICA ex rel.  
MELAN DAVIS and BRAD DAVIS,

Plaintiffs,

V.

ERIK PRINCE, et al.,

Defendants.

Case No. 1:08-cv-1244 – TSE-TRJ

## **DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Defendants respectfully move this Court for an order granting them summary judgment. Each count of the Second Amended Complaint alleges violations of the False Claims Act involving the presentation of knowingly false or fraudulent claims and the making or using of knowingly false statements or records.<sup>1</sup> To defeat a motion for summary judgment on their false claims and false statements allegations, relators must show there is a genuine issue of fact as to *each* of the elements for *each* of their causes of action, and for *each* of the defendants. *See United States ex rel. Owens v. First Kuwaiti Gen. Trading & Contracting Co.*, 612 F.3d 724, 728-29 (4th Cir. 2010). Because the undisputed facts establish that relators cannot prove one or more elements of their asserted violations, this Court should grant defendants' motion as to all counts, and as to all defendants.

<sup>1</sup> Both counts are directed to both contracts in the case. The difference between them is that Count II alleges that the FCA violations are based upon defendants' alleged provision of worthless services.

Grounds for this motion are set forth in the memorandum of points and authorities that accompanies this motion.

**WHEREFORE**, defendants respectfully ask this Court to grant their motion for summary judgment.

Dated: May 4, 2011

Respectfully submitted,

/s/David W. O'Brien

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 4th day of May, 2011, the foregoing Defendants' Motion for Summary Judgment was filed with the Court using the CM/ECF system which will send notification to the following:

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